



Docket No.: 1259-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)

Bojidar M. Stankov)

Group Art: 1616

Examiner: Choi, Frank I.

Serial No.: 09/854, 802)

Filed: May 14, 2001)

For: CONTROLLED RELEASE FORMULATIONS CONTAINING AN ACTIVE
INGREDIENT, PREFERABLY MELATONIN AND THE METHOD OF PREPARATION

New York, NY 10036

May 31, 2005

Commissioner for Patents
P.O. BOX 1450
Alexandria, VA 22313-1450

PETITION

It is requested that the Commissioner overrule the Examiner's determination that claims 17, 18, 20, 21 22, and 24 fail to comply with 37 CFR§1.75(c) because they fail to limit a prior claim and are in improper dependent form. The basis of the objection is believed to be an erroneous determination that a dependent claim must explicitly recite the terms of a prior claim in order to be a proper dependent claim. Nothing in the Statute or Rules imposes such a requirement as the reference back to a prior claim imports all of the limitations into a dependent claim even if the dependent claim fails to recite those limitations.

Claim 17 refers back to independent claim 16 and it further requires that the amount of melatonin be 1-3mg whereas the amount of melatonin is not specified in independent claim 16. Claim 18 is dependent on claim 16 and points out the invention in terms that specifiy that the invention "consists

essentially of" the recited components where independent claim 16 recites that the tablet "comprises" the recited ingredients. Claim 20 refers back to independent claim 16 and it further requires that the amount of melatonin be 1-3mg whereas the amount of melatonin is not specified in independent claim 16 and also points out the invention in terms that specify that the invention "consists essentially of" the recited components where independent claim 16 recites that the tablet "comprises" the recited ingredients.

Claim 21 has a specific plasma level limitation that is not mentioned in independent claim 16. Claim 22 is in independent form and should not be included in this objection. Claims 23 and 24 also are in proper dependent form as they further limit a prior claim.

For these reasons, it is requested that the objections to the claims be overruled.

Any required fee for this petition may be charged to Deposit Account No. 08-1540.

Respectfully submitted,



James V. Costigan
Reg. No. 25,669

MAILING ADDRESS:

HEDMAN & COSTIGAN, P.C.
1185 Avenue of the Americas
New York, NY 10036-2601
(212) 302-8989

I hereby certify that this
correspondence is being
deposited with the United States Postal Service as
first class mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22314-1450 on 5/21/65

